

Senate Bill No. 960

CHAPTER 247

An act to amend Section 4315 of the Business and Professions Code, relating to pharmacy.

[Approved by Governor August 22, 2014. Filed with
Secretary of State August 22, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 960, Morrell. Pharmacy.

Existing law, the Pharmacy Law, provides for the regulation and licensure of pharmacists by the California State Board of Pharmacy. Existing law authorizes the executive officer of the board, or his or her designee, to issue a letter of admonishment to a licensee for the failure to comply with specified requirements. Existing law requires a letter of admonishment to be in writing, and sets forth procedures by which the licensee may contest or comply with a letter of admonishment.

This bill would further authorize the executive officer of the California State Board of Pharmacy, or his or her designee, to issue a letter of admonishment to an applicant for licensure who has committed any violation of law that the board deems, in its discretion, does not merit the denial of a license or require probationary status. The bill would authorize a letter of admonishment that is issued to an applicant for licensure to be issued concurrently with a license.

The people of the State of California do enact as follows:

SECTION 1. Section 4315 of the Business and Professions Code is amended to read:

4315. (a) The executive officer, or his or her designee, may issue a letter of admonishment to a licensee for failure to comply with Section 733, for failure to comply with this chapter or regulations adopted pursuant to this chapter, or for failure to comply with Division 116 (commencing with Section 150200) of the Health and Safety Code, directing the licensee to come into compliance.

(b) The executive officer, or his or her designee, may issue a letter of admonishment to an applicant for licensure who has committed any violation of law that the board deems, in its discretion, does not merit the denial of a license or require probationary status under Section 4300. The letter of admonishment may be issued concurrently with a license.

(c) The letter of admonishment shall be in writing and shall describe in detail the nature and facts of the violation, including a reference to the statutes or regulations violated.

(d) The letter of admonishment shall inform the licensee or applicant that within 30 days of service of the order of admonishment the licensee or applicant may do either of the following:

(1) Submit a written request for an office conference to the executive officer of the board to contest the letter of admonishment.

(A) Upon a timely request, the executive officer, or his or her designee, shall hold an office conference with the licensee or applicant or his or her legal counsel or authorized representative. Unless so authorized by the executive officer, or his or her designee, no individual other than the legal counsel or authorized representative of the licensee or applicant may accompany the licensee or applicant to the office conference.

(B) Prior to or at the office conference, the licensee or applicant may submit to the executive officer declarations and documents pertinent to the subject matter of the letter of admonishment.

(C) The office conference is intended to be an informal proceeding and shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(D) The executive officer, or his or her designee, may affirm, modify, or withdraw the letter of admonishment. Within 14 calendar days from the date of the office conference, the executive officer, or his or her designee, shall personally serve or send the board's written decision by certified mail to the licensee's or applicant's address of record. This decision shall be deemed the final administrative decision concerning the letter of admonishment.

(E) Judicial review of the decision may be had by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 30 days of the date the decision was personally served or sent by certified mail. The judicial review shall extend to the question of whether or not there was a prejudicial abuse of discretion in the issuance of the letter of admonishment.

(2) Comply with the letter of admonishment and, if required, submit a written corrective action plan to the executive officer documenting compliance. If an office conference is not requested pursuant to this section, compliance with the letter of admonishment shall not constitute an admission of the violation noted in the letter of admonishment.

(e) The letter of admonishment shall be served upon the licensee or applicant personally or by certified mail at his or her address of record with the board. If the licensee or applicant is served by certified mail, service shall be effective upon deposit in the United States mail.

(f) The licensee or applicant shall maintain and have readily available a copy of the letter of admonishment and corrective action plan, if any, for at least three years from the date of issuance of the letter of admonishment.

(g) Nothing in this section shall in any way limit the board's authority or ability to do either of the following:

(1) Issue a citation pursuant to Section 125.9, 148, or 4067, or pursuant to Section 1775 of Title 16 of the California Code of Regulations.

(2) Institute disciplinary proceedings pursuant to this article.

(h) The issuance of a letter of admonishment pursuant to subdivision (b) shall not be construed as a disciplinary action or discipline for purposes of licensure or the reporting of discipline for licensure.